

E. Evans Wohlforth, Jr.
Sabrina M. Galli
ROBINSON & COLE LLP
666 Third Avenue, 20th Floor
New York, New York 10017
Telephone: (212) 451-2900
Facsimile: (212) 451-2999
ewohlforth@rc.com
sgalli@rc.com

Philippe Z. Selendy (admitted *pro hac vice*)
Andrew R. Dunlap (admitted *pro hac vice*)
Meredith Nelson (admitted *pro hac vice*)
Elizabeth H. Snow (admitted *pro hac vice*)
SELENDY GAY PLLC
1290 Avenue of the Americas
New York, NY 10104
Tel: 212-390-9000
pselendy@selendygay.com
adunlap@selendygay.com
mnelson@selendygay.com
esnow@selendygay.com

Attorneys for Defendant Save On SP, LLC

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

<p>JOHNSON & JOHNSON HEALTH CARE SYSTEMS INC., Plaintiff, v. SAVE ON SP, LLC, EXPRESS SCRIPTS, INC., and ACCREDITO HEALTH GROUP, INC. Defendants.</p>	<p>Civil Action No. 22-2632 (JKS)(CLW) <i>Document Electronically Filed</i> DECLARATION OF E. EVANS WOHLFORTH, JR., ESQ., IN SUPPORT OF MOTION TO SEAL</p>
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I, E. Evans Wohlforth, Jr., submit this Declaration in support of Defendant Save On SP, LLC's ("SaveOn") Motion to Permanently Seal portions of Johnson and Johnson Health Care

Systems, Inc.'s ("J&J") September 27, 2024 Motion to Compel Documents Responsive to Request Nos. 126, 127, and 129 and Exhibits 1-8, 10-17 [ECF No. 392], SaveOn's October 14, 2024 Opposition and Exhibits 1-5 of the Opposition [ECF No. 414], and J&J's October 21, 2024 Reply and Exhibits 21-22, 25 [ECF No. 421].

1. I am an attorney duly authorized to practice law in the State of New Jersey and a member in good standing of the bar of this Court. I am a member of the law firm of Robinson & Cole, LLP, co-counsel for SaveOn.

2. I submit this Certification in accordance with Local Civil Rule 5.3 based upon my personal knowledge in support of the Motion to Seal. The information that SaveOn seeks to seal consists of (1) SaveOn's confidential, internal information and communications about its business operations, strategies, and internal programs, which SaveOn asserts is proprietary business information, and (2) patients' personally identifying health information, which SaveOn asserts is confidential patient health information.

3. In accordance with Local Civ. R. 5.3(c)(3), attached hereto as Appendix A is the table documenting all materials to be sealed, the nature of the materials to be sealed, the legitimate private or public interest which warrants the relief sought, the clearly defined and serious injury that would result if the relief sought is not granted; and why a less restrictive alternative to the relief sought is not available. In summary, the information that SaveOn seeks to protect from public disclosure is SaveOn's proprietary business information and patients' confidential health information.

4. In accordance with Local Rule 5.3(c)(3)(f), this office contacted Plaintiff's counsel via e-mail to inquire as to Plaintiff's position on whether the materials that are the subject of this

Motion should remain sealed. Plaintiff's counsel does not object to the relief sought in this instant motion.

5. Redacted versions of J&J's September 27, 2024 Motion to Compel Documents Responsive to Request Nos. 126, 127, and 129 and Exhibits 2 and 10 [ECF No. 392], SaveOn's October 14, 2024 Opposition and Exhibit 1 of the Opposition [ECF No. 414], and J&J's October 21, 2024 Reply and Exhibit 25 [ECF No. 421], containing SaveOn's confidential proprietary information, are being filed with this Motion pursuant to Local Rule 5.3(c)(4), to ensure that the sealing is by the least restrictive means possible. No redacted version of Exhibits 1, 3-8, 11-17 of J&J's September 27, 2024 Motion to Compel [ECF No. 392], Exhibits 2-5 of SaveOn's October 14, 2024 Opposition [ECF No. 414], and Exhibits 21-22 of J&J's October 21, 2024 Reply [ECF No. 421] are being filed because it is believed that no less restrictive alternative than permanently sealing is available to prevent the disclosure of SaveOn's proprietary business information and patients' confidential health information.

6. SaveOn asserts that it has a legitimate interest in maintaining the confidentiality of the redacted and sealed information contained in these filings and in avoiding the public disclosure of this information because it includes SaveOn's proprietary business information, the disclosure of which would grant SaveOn's business competitors an unfair competitive advantage. *See e.g., Goldenberg v. Indel, Inc.*, 2012 WL 15909, at *3 (D.N.J. Jan. 3, 2012) (granting motion to seal "commercially sensitive and proprietary non-public business information"); *Bracco Diagnostics, Inc. v. Amersham Health Inc.*, 2007 WL 2085350, at *9-10 (D.N.J. July 18, 2007) (granting motion to seal where the public availability of documents containing confidential business information would have put a party at a competitive disadvantage).

7. SaveOn further asserts that it has a legitimate interest in maintaining the confidentiality of the redacted and sealed information contained in these filings and in avoiding the public disclosure of this information because it includes confidential patient health information, the disclosure of which would be harmful to patients. *See Rosario v. Doe*, No. CIV. 08-5185 RMB, 2013 WL 3283903, at *2-3 (D.N.J. June 25, 2013) (Bumb, J.) (sealing records containing private medical information).

8. SaveOn has an interest in maintaining the confidentiality of the redacted and sealed information contained in J&J's September 27, 2024 Motion to Compel Documents Responsive to Request Nos. 126, 127, and 129 and Exhibits 1-8, 10-17 [ECF No. 392], SaveOn's October 14, 2024 Opposition and Exhibits 1-5 of the Opposition [ECF No. 414], and J&J's October 21, 2024 Reply and Exhibits 21-22, 25 [ECF No. 421] as the documents contain confidential proprietary and health information including quotations from confidential deposition transcripts of SaveOn employees, explanations of SaveOn's marketing strategies and business practices, confidential and personal identifying information of patients and SaveOn employees.

9. Accordingly, SaveOn respectfully requests that the Court seal the unredacted versions of J&J's September 27, 2024 Motion to Compel Documents Responsive to Request Nos. 126, 127, and 129 and Exhibits 1-8, 10-17 [ECF No. 392], SaveOn's October 14, 2024 Opposition and Exhibits 1-5 of the Opposition [ECF No. 414], and J&J's October 21, 2024 Reply and Exhibits 21-22, 25 [ECF No. 421].

10. SaveOn submits that there is no less restrictive alternative available.

11. SaveOn respectfully submits that it has satisfied the criteria for sealing a judicial record set forth in Local Civil Rule 5.3. Accordingly, SaveOn requests that the Court grant its motion to seal materials.

12. Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Dated: November 4, 2024

By: s/ E. Evans Wohlforth, Jr.

E. Evans Wohlforth, Jr.

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ROBINSON & COLE LLP

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